

CALFRESH (CF) PROGRAM REQUEST FOR POLICY/REGULATION INTERPRETATION

INSTRUCTIONS: Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. If additional space is needed, please use the second page. Be sure to identify the additional discussion with the appropriate number and heading. Retain a copy of the CF 24 for your records.

- Questions from counties, including county Quality Control, must be submitted by the county CalFresh Coordinator and may be submitted directly to the CalFresh Policy analyst assigned responsibility for the county, with a copy directed to the appropriate CalFresh Policy unit manager.
- Questions from Administrative Law Judges may be submitted directly to the CalFresh Policy analyst assigned responsibility to the county where the hearing took place, with a copy of the form directed to the appropriate CalFresh Bureau unit manager.

1. RESPONSE NEEDED DUE TO: <input checked="" type="checkbox"/> Policy/Regulation Interpretation <input type="checkbox"/> QC <input type="checkbox"/> Fair Hearing <input type="checkbox"/> Other:	5. DATE OF REQUEST: 3/24/15	NEED RESPONSE BY: 4/7/15
2. REQUESTOR NAME:	6. COUNTY/ORGANIZATION: County of San Bernardino	
3. PHONE NO.:	7. SUBJECT: Household Composition and 40 quarters	
4. REGULATION CITE(S): 63-102 (9)	8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references) NOTE: All requests must have a regulation cite(s) and/or a reference(s). ACIN I-13-01	

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

Can same sex partners whether legally married/registered as domestic partners combine each other's quarters to achieve 40 quarters?

Per EAS 63-102, a "spouse" is defined as "either of two individuals who would be defined as married to each other under applicable state law or who are cohabiting and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople".

Per ACIN I-13-01: Question #5 - The California Food Assistance Program opened up our ability to recognise marriages that are not legal, with couples who hold themselves out to the community as married. What is the State's policy for same sex marriages?

10. REQUESTOR'S PROPOSED ANSWER:

Same sex married couples may combine each other's quarters to achieve 40 quarters. Per, ACIN I-13-01. "This policy is based on state law that recognizes legal unions between men and women and which does not currently recognize marriages between same sex individuals." Since 2001, state law has changed to include same sex partners, therefore, same sex married couples are recognized legal unions in the State of California. The State does not have a policy on same sex marriages. However, in CalFresh, a federal policy has been established, which acknowledges couples who hold themselves out to the community as married, for purposes of counting quarters of earnings to determine federal eligibility for noncitizens. This policy is based on state law that recognizes legal unions between men and women and which does not currently recognize marriages between same sex individuals. Therefore, the current policy for recognizing couples who hold themselves out to the community as "married" does not apply to same sex couples.

11. STATE POLICY RESPONSE (CFPB USE ONLY):

According to the FNS SNAP Non-Citizen Guidance dated June 2011, a non-citizen may take the quarters worked by the non-citizen's spouse if they are married or if the spouse is deceased. As a result of the United States v. Windsor (Windsor) case, the finding was that the Defense of Marriage Act (DOMA) is unconstitutional. Therefore, according to FNS (SNAP Memo dated May 27, 2014, RE: revised Defense of Marriage Act Impact on SNAP eligibility) the same definition of spouses used for eligibility purposes applies to CF non-citizen rules. Further, a married same-sex couple is able to meet the same requirements for 40 quarters as if they were a married opposite-sex couple. In addition, FNS states that same-sex spouses must be considered to be married and part of the same household for SNAP eligibility purposes if their marriage is recognized in the jurisdiction where the marriage was celebrated. Similarly, USCIS, under direction of the Department of Homeland Security stated (<http://www.uscis.gov/family/same-sex-marriages>) that all relevant laws to determine the validity of an opposite-sex marriage is applied to determine the validity of a same-sex marriage.

FOR CDSS USE

DATE RECEIVED:	DATE RESPONDED TO COUNTY/ALJ: June 26, 2015sc
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